

ASSEMBLY BILL

No. 2892

Introduced by Assembly Member Swanson

February 22, 2008

An act to add Section 5765 to the Food and Agricultural Code, relating to pests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2892, as introduced, Swanson. Pests: eradication: aerial spraying of pesticide: voter consent.

Existing law authorizes the Secretary of Food and Agriculture, by regulation, to proclaim any area within the state an eradication area with respect to a pest, prescribe the boundaries of the area, and name the pest or hosts of the pest that are known to exist within the area, together with the means or methods which are to be used to eradicate or control the pest. The secretary is required to notify specified persons and entities before aerially applying a pesticide to effect the eradication of a pest if the eradication project is in an urban area.

This bill would require the secretary, if the secretary determines that it is necessary to apply a pesticide aerially in a proclaimed pest eradication area that includes an urban area, to first obtain the consent of $\frac{2}{3}$ of the registered voters of the affected cities and counties. The bill would require the secretary to consult with the elections officials of the affected cities and counties concerning the most appropriate and expedient manner of conducting an election to obtain the consent. The local elections officials would be required to proceed with the conduct of the election, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5765 is added to the Food and
2 Agricultural Code, to read:
3 5765. (a) Notwithstanding any other provision of law, if the
4 secretary determines that it is necessary to apply a pesticide aerially
5 in a proclaimed pest eradication area that includes an urban area,
6 the secretary shall first obtain the consent of two-thirds of the
7 registered voters of the affected cities and counties in order to be
8 able to conduct the aerial application.
9 (b) In order to obtain the consent required by subdivision (a),
10 the secretary shall consult with the elections officials of the affected
11 cities and counties concerning the most appropriate and expedient
12 manner of conducting an election, which may include a mail ballot
13 election, to obtain that consent and the local elections officials
14 shall proceed with the conduct of that election.
15 SEC. 2. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.